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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 13 April 2006 from the Chargé d'affaires a.i. of the Permanent Mission of the Independent State of Samoa to the United Nations addressed to the Chairman of the Committee

On instructions from my Government, I have the honour to convey herewith the national report of Samoa to the Security Council Committee established pursuant to resolution 1267 (1999), in accordance with paragraph 6 of Security Council resolution 1455 (2003) (see annex).

The Government of Samoa stands ready to provide any further information as may be requested by the Committee.

(*Signed*) Perina Jacqueline **Sila**
Chargé d'affaires a.i.

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Annex to the letter dated 13 April 2006 from the Chargé d'affaires a.i. of the Permanent Mission of the Independent State of Samoa to the United Nations addressed to the Chairman of the Committee

Report of SAMOA
on actions taken by the Government to implement
Security Council resolution 1455 (2003)

I. Introduction

1. There has been no detected activity by Usama bin Laden, Al Qaeda or the Taleban and their associates in Samoa to date, nor have any specific threats or trends have been identified in this regard.

II. Consolidated List

2. Samoa has incorporated, through legislative and operational means, the 1267 Committee's list within its legal system, administrative structure, including financial supervision, police, immigration control, customs and consular authorities. Relevant legislation includes the *Prevention and Suppression of Terrorism Act 2002* (PSTA) and the *Money Laundering Prevention Act 2000* (MLPA). At an operational level, details of persons and entities on the 1267 list are included on a National Border Management System (NBMS) watch-list and provided to financial institutions via the Financial Intelligence Unit (FIU).

3. No problems have been identified.

4. No designated individuals or entities have been identified.

5. Samoa has nothing to report in this regard.

6. Not applicable.

7. Not applicable.

8. The PSTA was passed in 2002. This is the primary legislative vehicle for counter-terrorism measures in Samoa and contains a number of specific new criminal offences directed at terrorist acts. These include:

- carrying out, attempting, or participating in a terrorist bombing;
- taking, or attempting to take hostages;
- attacking, attempting, or threatening to attack an Internationally Protected Person or their property;

- unlawfully seizing, attempting or threatening to seize an aircraft or ship;
- committing, attempting or threatening acts of violence at an airport
- financing or assisting to finance terrorist acts

The maximum penalty for the most serious of these offences is life imprisonment. The offences supplement existing general offences that would also apply to criminal acts carried out by terrorists.

The Act operates in conjunction with the MLPA to form the asset-freezing regime required for compliance with UNSCR 1373 and related international obligations.

The government plans to introduce into Parliament in 2006 a suite of legislative amendments aimed at enhancing the effectiveness of the existing counter terrorism framework under the MLPA, PSTA, Extradition Act, and covering proceeds of crime and mutual assistance in criminal matters.

III. Financial and economic asset freeze

9. Under the PSTA (sections 20, 22) it is an offence to finance, or assist in the financing of terrorists. The Financial Intelligence Unit (FIU) located within the Money Laundering Prevention Authority regularly receives updated 1267 lists from the Ministry of Foreign Affairs and Trade. The FIU circulates the updated list of designated terrorists to financial institutions. Any institution that holds funds or assets on behalf of a customer appearing on the 1267 list commits a terrorist financing offence if it facilitates a transaction having been notified of the customer's inclusion on the list.

A financial institution is required to file a report with the FIU if one of its customers appears on the 1267 list.

On being notified that an institutions customer matches an entry on the 1267 list the FIU takes steps to confirm the identity of the customer. If it appears that the customer is a listed person or entity the FIU will request the Attorney General to make an application to the Supreme Court for a freezing order under the PSTA. In addition to its power under the PSTA the Supreme Court also has, and has previously exercised its inherent jurisdiction to make an order freezing funds or assets.

There are no impediments to the freezing process under Samoan domestic law.

10. There are a number of agencies that contribute to the Governments strategy to identify and vigorously investigate and prosecute any terrorist related activity in Samoa. The Police is the primary security and law enforcement agency in Samoa and has overall operational responsibility

for the investigation and prosecution of suspected terrorist activity. In accordance with a constitutional convention the Attorney General, as the governments principal law officer is responsible for the conduct of any related criminal proceedings.

Border security agencies such as Immigration and Customs operate at the border to detect suspicious activity using a new computerised Border Management System (NBMS). This system provides real time access to a range of watch-lists linked to several intelligence databases. These include the list of designated persons and entities maintained by the 1267 Committee. If a listed person presented at the border the system would trigger a flag and result in officials taking appropriate steps.

All relevant government agencies have access to NBMS and can add intelligence information linked to named individuals. The system has built in safeguards as protection against unauthorised access or use.

The Government has established the Transnational Crime Unit (TCU) to act as a specialist intelligence unit on terrorist or organised criminal activity. The unit is attached to the Department of Prime Minister and is comprised of staff seconded from Police, Customs, and Immigration agencies. The unit acts as the primary coordination point for the collection and distribution of intelligence related to suspected terrorist and organised criminal activity. The unit has close relationships with the Pacific Transnational Crime Coordination Centre (PTCCC) in Suva, Fiji, Interpol and other relevant intelligence agencies within the Pacific region and internationally.

The FIU, located within the Money Laundering Prevention Authority is a specialist unit for the collection, analysis and investigation of financial intelligence received from the financial system. The unit operates the reporting and analysis system utilised by the Australian Transaction Reporting and Analysis Centre (AUSTRAC), a system widely recognised as one of the best in the world. Staff in the unit receives regular training in Australia, Fiji and New Zealand.

Other government agencies that contribute to counter terrorism measures include the Ministry of Foreign Affairs and Trade, the Immigration Service and Ministry for Revenue.

11. Under the MLPA, banks and other financial institutions are required to report transactions to the FIU that they suspect may be related to money laundering or proceeds of crime. The latter would include terrorist financing offences. The Act also requires institutions to conduct due diligence on their customers before permitting them to conduct transactions. The Money Laundering Prevention Authority is the statutory regulator of the financial sector for anti-money laundering and counter-terrorist financing purposes. The Authority has the power to monitor and enforce compliance with MLPA requirements.

The International Banking Act 2005 regulates international banks operating in Samoa. The Act requires banks to be licensed and to have a physical presence in the country. It places restrictions

on the issue, sale and transfers of shares and banking licences. It imposes record keeping requirements on regulated institutions and provides a range of powers to the Samoa International Finance Authority (SIFA) as the relevant supervisory authority. The Central Bank of Samoa is the regulatory body for domestic banks.

Samoa considers that the obligations its financial institutions are required to meet comply with the current standards set by the Financial Action Task Force (FATF) on Money Laundering. Samoa was evaluated by the Asia Pacific Group on Money Laundering, a FATF style regional body, in February 2006. A report of the evaluators is expected to be released in May 2006. The Government shall consider the adoption of any recommendations to enhance compliance that may be made in that report. However, the government considers that the current legislative and operational framework operating in Samoa provide a high level of compliance with all aspects of the FATF standards.

12. To date, no assets of individuals or entities listed in the 1267 list have been located or frozen in Samoa.

13. Not applicable. Refer 12.

14. Upon receiving advice of changes to the 1267 list from the Ministry of Foreign Affairs and Trade the FIU notifies regulated financial institutions of these changes.

Regulated financial institutions are those that conduct "Banking business" as defined in the Central Bank of Samoa Act 1984, the Financial Institutions Act 1996, and the International Banking Act 2005, Financial activities that are subject to supervision for AML/CFT purposes are finance leasing, venture risk capital, money transmission services, issuing and administering means of payment (e.g. credit cards, travellers' cheques and bankers' drafts), guarantees and commitments, money broking, investment business, insurance business transactions, real property business transactions, bullion dealing, casinos and other gambling and betting services, acting as a financial intermediary, trust business, certified public accountants, lawyers (Barristers and Solicitors), trading for own account or account of customers, or underwriting or participating in share issues in:

(a) money market instruments (cheques, bill, certificates of deposit etc.);

(b) foreign exchange;

(c) financial and commodity based derivative instruments (e.g. futures, options, interest rate and foreign exchange instruments, etc.);

(d) exchange and interest rate instruments; and

(e) transferable or negotiable instruments.

- **Required bank reporting procedures, if any, including the use of Suspicious Transaction Reports (STR's), and how such reports are reviewed and evaluated.**

  See above

- **Requirements, if any, placed on financial institutions other than banks to provide STR's, and how such reports are reviewed and evaluated.**

  See above

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds, and other related items.**

  Persons or businesses dealing in these commodities are required to comply with the requirements of the MLPA.

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as, or similar to, "hawala", as well as on charities, cultural and other non profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

The obligations of the MLPA apply to all persons or businesses providing money remittance/transfer services. The suite of legislation to be introduced into Parliament in 2006 will include proposed amendments to the MLPA to extend AML/CFT obligations to non-profit organizations.

IV. Travel Bans

Under the sanction regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals.

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The NBMS is the principal means by which Samoa implements the travel ban required by relevant resolutions. The system incorporates an Advanced Passenger Information (API) system that airlines and shipping operators are required to provide under the *Immigration Act 2004*. This system provides agencies to screen passenger lists for potential security risks or other persons of interest prior to their arrival in Samoa.

It is considered that several factors operate to reduce the risk of terrorists entering Samoa. These include:

- the operation of a comprehensive Border Management System that is fully integrated with relevant intelligence agencies;
- proactive and coordinated intelligence gathering by Samoan government agencies at a regional and domestic level;
- a high level of awareness by Samoa's border agencies; and
- Samoa's remote geographical location and small number of commercial air links originating from other closely monitored borders, i.e. Australia, New Zealand and Fiji.

In addition to operational mechanisms legislative measures controlling who may enter Samoa include amendments to the *Immigration Act 2004* and *Citizenship Act 2004* passed after a comprehensive review by immigration and justice officials. These amendments:

- Authorise the Minister of Immigration to declare persons to be prohibited immigrants who present a risk to the security of Samoa or are involved in terrorist or money laundering related activity (ss 29-31, Immigration Act);
- Provide the Minister of Immigration with a broad power to compel persons to provide information (s 6, Immigration Act);
- Impose duties on airlines and shipping operators to provide authorities with Advanced Passenger Information in accordance with the International Civil Aviation Organisation (ICAO) standards (s9 Immigration Act);
- Provide the Minister of Immigration with the power to refuse, cancel or deprive persons of citizenship (ss 6,15 and 17 Citizenship Act);
- Establishes a regime relating to transit permits (s40-42 Immigration Act)
- Creates offences relating to false or misleading statements or documents under the Act (s 25 Citizenship Act).

The power of the Immigration Minister, under the *Immigration Act 1966* to deny entry into Samoa or remove persons considered "undesirable aliens" particularly those who may pose a danger to the peace, order and security of the country would permit the removal of suspected terrorists. The Minister has exercised this power but on grounds unrelated to terrorist risks.

16. Have you included the names of listed individuals in your national 'stop list" or border checkpoint list? Briefly outline the steps taken and any problems encountered.

Yes, the NBMS includes persons appearing on the 1267 list. No problems with the current process have been identified.

17. How often is the updated list transmitted to border control authorities? Is there the capability of searching list data using electronic means at all entry points?

The watch-lists in NBMS are updated electronically when new entities or persons are added to the 1267 list. The system permits electronic searches at all entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

No listed individuals have been identified and stopped at Samoa's border or in transit.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

Consular offices have no role in the issuing of visas. Visas permitting stays of up to 30 days in Samoa are issued to all persons permitted to enter the country at the border. All applications for visas permitting longer stays are received and assessed by the Ministry of Immigration in Samoa. Background checks are conducted on all applicants utilising intelligence systems available to authorities, including reference to a number of international watch-lists that include the 1267 list).

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

20. Samoa's current legislation restricting the possession or use of firearms and other weapons has been in place since the 1960's. The *Police Offences Ordinance 1961* makes it an offence

punishable by imprisonment for up to one year, to be armed with a dangerous weapon without a lawful purpose.

The *Arms Ordinance 1961* prohibits dealing in arms and ammunition including the importation of arms and ammunition, except where a licence is granted. The Police have the power to seize and impound firearms and ammunition held by licensed dealers. The Ordinance prohibits the possession of firearms and ammunition without a licence or permit. The possession or carriage of arms, ammunition, or explosives is also prohibited except for lawful and proper purposes.

The *Civil Aviation Act 1998* makes it an offence to take firearms, explosives and other arms onto an aircraft.

The *Customs Act 1977* regulates the importation of prohibited goods into Samoa as prescribed in the First Schedule to the Act. Under section 49 of the Act the Head of State may add items to the list on grounds set out in the Act.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

In response to 21-- 23, the number of firearms in Samoa is very small and there are tight controls on their importation or possession that are closely monitored by relevant government agencies.

The *Arms Ordinance 1960* is the principal means by which the provision of arms to or acquisition of arms by, persons or entities on the 1267 list is controlled. That Ordinance together with the *Police Offences Ordinance 1961* provide Police with the power to search for and seize illegal weapons, or those that are suspected of being used to commit criminal offences. Irrespective of whether any person attempting to supply arms to listed persons or entities was a licensed firearm dealer or not, authorities have powers to search and seize arms.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? if so, please provide additional details or proposals.

Not applicable.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

Not applicable

26. Please include any additional information you believe pertinent.

Not applicable